IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 12TH JANUARY 2007 / 22ND PAUSHA 1928

OP.No. 8701 of 2003(J)

PETITIONER:

SRI.C.G.JOSEPH, MANAGING PARTNER,
CHIRAYATH INDUSTRIALS AND TRANSPROT,
P.B.NO.13, CHALAKUDY.

BY ADV. SRI.ANTONY DOMINIC
PJI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SMT.PRIYA MAHESH
SMT.PRIYA MANJOORAN

RESPONDENTS:
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1. SRI.K.J.RAPHEL,
KACHAPPILLY HOUSE, KADUKUTTY P.O., CHALAKUDY.

2. INDUSTRIAL TRIBUNAL, PALAKKAD.

BY ADV. SRI. P.RAMAKRISHNAN
BY GOVERNMENT PLEADER SRI. NOBLE MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 12 /01 /2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.15101/2003 IN OP. NO.8701/2003

DISMISSED

12.1.2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE AWARD OF THE 2ND RESPONDENT DT.9.12.02.

E.XT.P2:- COPY OF THE CLAIM STATEMENT FILED BY THE 1ST RESPONDENT.

EXT.P3:- COPY OF THE REJOINDER FILED BY THE PETITIONER.

/TRUE COPY/

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S. SIRI JAGAN, J.

O.P. No. 8701 OF 2003 J

Dated this the 12th day of January, 2007

J U D G M E N T

The management in ID No.59/00 of the Industrial Tribunal, Palakkad is the petitioner in this original petition, who challenges Ext.P1 award in that ID. The issue referred for adjudication was,

> " Whether the denial of employment to Sri.K.J.Rapheal, Casher with effect from 10.11.1999 is justifiable? If not, what relief he is entitled to?"

The contention of the workman namely, the 1st respondent herein was that on 10.11.1999 when he returned from the bank after an errand, the management told him not to come for work thereafter. On a consideration of the evidence before it, the Tribunal came to the finding that the letter which the management claimed to be a resignation letter of the workman is not a resignation letter at all and, therefore, the contention of the management that the 1st respondent workman resigned from service cannot be accepted. The Tribunal, therefore, went on to find that the 1st respondent was denied employment. However, instead of directing reinstatement, the Tribunal found that ends of justice would be met if the management is directed to pay a sum

of Rs.35,000/- to the workman in lieu of reinstatement as compensation. The Tribunal also directed that in addition the workman shall be entitled to claim gratuity and other terminal benefits in accordance with law.

2. The contention of the counsel for the management is that the Tribunal went wrong in holding that Ext.M2 letter produced by the management is not a resignation letter at all, but only a complaint regarding the ill treatment meted out to the 1st respondent workman by the management. The counsel would strenuously argue that this is a perverse finding on the very face of Ext.M2 letter. He would invite my attention to paragraph 7 of the award wherein the relevant portion of Ext.M2 letter in Malayalam has been extracted. He would try to impress upon me that Ext.M2 would certainly be a resignation letter and, therefore, the finding of the Tribunal is perverse. On a reading of the said paragraph, I am also not convinced that the same would amount to a resignation letter. In Ext.M2, I could only see the righteous indignation of a workman, who put in 18 years of service in the management when he was told not to come for work thereafter. He also was aggrieved by the direction of the management that he should work from 6.30 to 2.30 continuously and during the said 8 hours he shall not take any food whatsoever. He only expressed his anguish over the same and said that under those conditions it would be difficult to continue to work there. Of course, there is a sentence which would say that “in that case he

may be given his benefits as on that day". In any event, certainly the finding entered into by the Tribunal on the evidence before it cannot be said to be perverse at all. Perhaps, another person may have a different view about that evidence but that is not ground to hold that it is perverse. Further, I am not sitting in appeal over the award of the Industrial Tribunal. My jurisdiction under Article 226 in such matters is limited to the extent of examining whether the finding of the Tribunal is perverse or not. On a reading of the award, I could not persuade myself to hold that the finding entered into by the Tribunal is in any way perverse. Therefore, I do not find any merit in the original petition and accordingly the same is dismissed.

(S. SIRI JAGAN, JUDGE)

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S. SIRI JAGAN , J.

OP No.8701/03J

J U D G M E N T

12th January, 2007